In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-1060

CALVIN SPURGEON JOHNSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Following trial in the United States District Court for the Western District of North Carolina sitting without a jury, petitioner was convicted on eight counts of having bribed a federal officer in violation of 18 U.S.C. 201 (b)(3). He was sentenced to six months' imprisonment on count one and to a three year suspended sentence on counts two through eight. The court of appeals affirmed in a *per curiam* opinion of December 11, 1972 (Pet. App.). The petition for certiorari was not filed until January 31, 1973 and is therefore out of time under Rule 22(2) of the Rules of this Court. There is in any event no reason for further review.

Petitioner's contentions concerning non-custodial "*Miranda*" warnings, entrapment, and multiple counts in the indictment for each installment payment made on a bribe were raised below and rejected in the opinion of the court of appeals, on which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

MARCH 1973.